



New York City Council

Christine C. Quinn, Speaker

Finance Division

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Hearing on the Mayor's Fiscal Year 2011 Preliminary Budget

District Attorneys/Special Narcotics Prosecutor

March 11, 2010

Committee on Public Safety

Hon. Peter F. Vallone Jr., Chair

Andy Grossman, Deputy Director, Finance Division

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Summary and Highlights

District Attorneys/Special Narcotics Prosecutor

Dollars in Thousands

	2008 Actual	2009 Actual	2010 Adopted	2010 Jan. Plan	2011 Preliminary	Difference, 2010 – 2011*
Spending						
<i>Personnel Services</i>	\$262,820	\$267,178	\$242,335	\$267,840	\$208,924	(\$33,411)
<i>Other than Personal Services</i>	34,912	36,234	34,104	36,312	31,981	(2,124)
Table Total	\$297,732	\$303,412	\$276,439	\$304,152	\$240,904	(\$35,535)

District Attorneys/Special Narcotics Prosecutor

Dollars in Thousands

	2008 Actual	2009 Actual	2010 Adopted	2010 Jan. Plan	2011 Preliminary	Difference, 2010 – 2011*
Spending						
<i>New York</i>	\$90,264	\$96,919	\$82,771	\$92,401	\$69,428	(\$13,343)
<i>Kings</i>	50,762	50,463	46,693	51,197	40,977	(5,716)
<i>Brooklyn</i>	83,584	84,281	77,358	83,576	69,061	(8,297)
<i>Queens</i>	47,033	45,764	45,797	50,289	40,088	(5,709)
<i>Richmond</i>	8,311	8,305	7,601	8,8184	6,673	(928)
<i>Special Narcotics</i>	17,778	17,679	16,220	18,505	14,679	(1,541)
Table Total	\$297,732	\$303,412	\$276,439	\$304,152	\$240,904	(\$35,535)

The Fiscal 2011 Preliminary Budget for the City's prosecutors (\$240.9 million) is approximately \$35.5 million less than the Fiscal 2010 Adopted Budget of \$276.4 million. This is due to prior plan actions and January Plan actions which lowered the proposed Fiscal 2011 budget, and City Council funding that supplemented the Fiscal 2010 Adopted Budget. The adjusted Fiscal 2010 budget for the prosecutors as presented in the January Plan shows an increase of approximately \$27.7 million. This increase stems primarily from two factors: the funding of approximately \$12.9 million for collective bargaining increases and the receipt of approximately \$12.4 million in State and federal grants.

DA/OSNP: Issues and Budget Highlights

- **Budget Reductions in Prior Plans.** The budgets of the District Attorneys and the Special Narcotics Prosecutor have been the subject of a series of reductions over the course of several financial plans. While the short-term impact of these cuts has been mitigated to a large extent by the receipt of revenue credits (as well as City Council restorations), the cumulative budget impact on the Fiscal 2011 and outyear budgets is substantial. At the time of Fiscal 2010 Budget Adoption, the projected prosecutor budgets for Fiscal 2011 represented a steep drop-off compared with Fiscal 2010.
- **Proposed Budget Reductions in the January Plan.** The projected year-to-year drop-off from Fiscal 2010 to Fiscal 2011 is now further exacerbated by the January Plan proposal to reduce the prosecutors' budgets by another eight percent, or 22.5 million.

- **Deferred Prosecution Revenue Credits.** The Manhattan DA has been able to generate significant revenues for the City (and revenue credits for all of the City's prosecutors) through the negotiation of so-called "deferred prosecution" settlements in which defendants agree to make payments prior to the filing of an accusatory instrument. The State recently passed legislation dictating the manner in which such revenue will be apportioned among the City, State and the specific prosecutor's office handling such cases.
- **OMB Revenue Agreement.** The prosecutors have, for the past several years, operated under a Revenue Agreement with the Mayor's Office of Management and Budget (OMB) that allowed the agencies to have a portion of prior-year budget reductions restored if revenues were generated above a certain baseline. Revenues generated in New York County, the nation's financial center, have allowed for such restorations for all of the prosecutors' offices (see "Deferred Prosecution Revenue Credits" above). The Revenue Agreement with OMB has expired and, OMB reports, a new one is being negotiated.
- **Stimulus Funding.** The sum of \$5 million in federal Stimulus funding flowing from the American Recovery and Reinvestment Act (ARRA) will support the operations of the City's prosecutors over several years. These funds include approximately \$1.3 million in Fiscal 2010, \$2.5 million in Fiscal 2011, \$1.1 million in Fiscal 2012, and \$111,000 in Fiscal 2013.

District Attorneys/Special Narcotics Prosecutor

The five District Attorneys (DA's) enforce the provisions of the penal law and all other criminal statutes, which include the initial screening of new cases, preparation of hearings, gathering of resources for hearings, and presentation of cases in court for trial and appeal. The Office of the Special Narcotics Prosecutor (OSNP) enforces the provisions of the penal law relative to felony narcotics and predicate felony cases by the investigation of complaints, preparation of indictments, and trial of defendants indicted on felony narcotics charges.

DAs/Special Narcotics <i>Dollars in Thousands</i>	2008 Actual	2009 Actual	2010 Adopted	2010 Jan. Plan	2011 Jan. Plan	Difference 2010–2011
Spending						
Personal Services	\$262,820	\$267,178	\$242,335	\$267,840	\$208,924	(\$33,411)
Full-Time Salaried – Civilian	252,258	257,020	228,910	254,140	195,499	(33,411)
Other Salaried & Unsalariated	3,819	4,160	2,031	2,031	2,031	-
Additional Gross Pay	3,144	2,495	702	702	702	-
Overtime - Civilian	3,426	3,250	907	1,022	907	-
Fringe Benefits	224	292	208	369	208	-
Amounts to be Scheduled	-	-	9,576	9,576	9,576	-
PS Other	(51)	(38)	-	-	-	-
Other Than Personal Services	34,912	36,234	34,104	36,312	31,981	(2,124)
Supplies and Materials	3,596	3,407	3,775	3,050	2,814	(961)
Property and Equipment	2,136	2,195	1,835	1,628	1,835	-
Other Services and Charges	26,727	27,059	26,523	28,319	25,360	(1,163)
Contractual Services	2,451	3,571	1,971	3,315	1,971	-
Fixed and Misc. Charges	3	2	-	-	-	-
TOTAL	\$297,732	\$303,412	\$276,439	\$304,152	\$240,904	(\$35,535)
Funding						
<i>City Funds</i>			\$262,110	\$277,370	\$224,055	(\$38,055)
<i>Memo: Council Funds</i>			500	2,000		
<i>Other Categorical</i>			-	41	-	-
<i>State</i>			13,092	18,554	13,092	-
<i>Federal - Other</i>			-	6,950	2,520	2,520
<i>Intra City</i>			1,237	1,237	1,237	-
TOTAL	\$297,732	\$303,412	\$276,439	\$304,152	\$240,904	(\$35,535)
Headcount						
Full-Time Salaried	3,923	3,911	3,484	3,491	3,221	(263)
FY 2010 Council Changes						
<i>Dollars in Thousands</i>						
Budgetary Supplement				\$2,000		

To supplement the Fiscal 2010 budgets of the City's prosecutors, the City Council provided these agencies with the sums of \$500,000 at the time of budget adoption and \$1.5 million in the year's first budget modification (MN-1). These amounts were provided at the prosecutors' request to partially restore budget reductions made over the past several financial plans. The supplemental appropriations have enabled the DAs and Special Narcotics Prosecutor to better perform many core and discretionary programs.

DA – New York	2008	2009	2010	2010	2011	Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	Jan. Plan	Jan. Plan	2010–2011
Spending						
Personal Services	\$81,690	\$86,824	\$75,797	\$84,333	\$62,947	(\$12,850)
Full-Time Salaried – Civilian	79,494	84,565	65,094	73,535	52,244	(12,850)
Other Salaried & Unsalaries	534	569	582	582	582	-
Additional Gross Pay	839	720	327	327	327	-
Overtime - Civilian	702	823	157	99	157	-
Fringe Benefits	128	148	61	214	61	-
Amounts to be Scheduled	-	-	9,576	9,576	9,576	-
PS Other	(8)	(2)	-	-	-	-
Other Than Personal Services	8,574	10,095	6,974	8,068	6,481	(493)
Supplies and Materials	1,630	1,707	1,334	1,539	1,334	-
Property and Equipment	716	1,027	570	360	570	-
Other Services and Charges	4,936	5,478	4,025	4,930	3,498	(527)
Contractual Services	1,290	1,882	1,045	1,239	1,079	34
Fixed and Misc. Charges	1	2	-	-	-	-
TOTAL	\$90,264	\$96,919	\$82,771	\$92,401	\$69,428	(\$13,343)
Funding						
City Funds			\$78,389	\$83,056	\$64,613	(\$13,775)
State			3,727	6,797	3,727	-
Federal - Other			-	1,893	432	432
Intra City			655	655	655	-
TOTAL	\$90,264	\$96,919	\$82,771	\$92,401	\$69,428	(\$13,343)
Headcount						
Full-Time Salaried	1,211	1,233	1,024	1,024	950	(74)

DA - Bronx	2008	2009	2010	2010	2011	Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	Jan. Plan	Jan. Plan	2010–2011
Spending						
Personal Services	\$47,658	\$47,294	\$44,310	\$48,526	\$38,779	(\$5,531)
Full-Time Salaried – Civilian	46,005	45,933	43,956	48,172	38,425	(5,531)
Other Salaried & Unsalaries	154	128	18	18	18	-
Additional Gross Pay	610	511	71	71	71	-
Overtime - Civilian	870	708	228	228	228	-
Fringe Benefits	27	25	38	38	38	-
PS Other	(8)	(11)	-	-	-	-
Other Than Personal Services	3,104	3,169	2,382	2,671	2,197	(185)
Supplies and Materials	559	483	272	367	84	(188)
Property and Equipment	472	514	329	288	329	-
Other Services and Charges	1,908	1,980	1,672	1,798	1,675	4
Contractual Services	164	192	110	218	110	-
TOTAL	\$50,762	\$50,463	\$46,693	\$51,197	\$40,977	(\$5,716)
Funding						
City Funds			\$43,212	\$45,764	\$37,166	(\$6,047)
State			2,898	3,361	2,898	-
Federal - Other			-	1,490	331	331
Intra City			582	582	582	-
TOTAL	\$50,762	\$50,463	\$46,693	\$51,197	\$40,977	(\$5,716)
Headcount						
Full-Time Salaried	797	787	724	724	680	(44)

DA - Kings	2008	2009	2010	2010	2011	Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	Jan. Plan	Jan. Plan	2010–2011
Spending						
Personal Services	\$67,785	\$68,387	\$62,160	\$67,951	\$54,469	(\$7,690)
Full-Time Salaried – Civilian	63,073	63,761	60,699	66,491	53,008	(7,690)
Other Salaried & Unsalaries	2,607	3,027	1,016	1,016	1,016	-
Additional Gross Pay	979	659	207	207	207	-
Overtime - Civilian	1,143	894	181	181	181	-
Fringe Benefits	19	73	57	57	57	-
PS Other	(36)	(26)	-	-	-	-
Other Than Personal Services	15,799	15,894	15,198	15,625	14,591	(607)
Supplies and Materials	640	466	1,284	417	657	(628)
Property and Equipment	468	342	414	541	414	-
Other Services and Charges	14,130	14,170	13,141	13,445	13,161	21
Contractual Services	561	916	359	1,222	359	-
Fixed and Misc. Charges	1	-	-	-	-	-
TOTAL	\$83,584	\$84,282	\$77,358	\$83,576	69,061	(\$8,297)
Funding						
City Funds			\$73,947	\$77,557	\$64,829	(\$9,118)
State			3,410	4,258	3,410	-
Federal - Other			-	1,761	821	821
TOTAL	\$83,584	\$84,282	\$77,358	\$83,576	\$69,061	(\$8,297)
Headcount						
Full-Time Salaried	1,023	1,020	937	944	860	(77)

DA - Queens	2008	2009	2010	2010	2011	Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	Jan. Plan	Jan. Plan	2010–2011
Spending						
Personal Services	\$41,010	\$40,175	\$37,437	\$41,607	\$32,569	(\$4,868)
Full-Time Salaried – Civilian	39,938	39,070	36,908	40,906	32,040	(4,868)
Other Salaried & Unsalaries	20	17	216	216	216	-
Additional Gross Pay	491	408	61	61	61	-
Overtime – Civilian	526	651	218	390	218	-
Fringe Benefits	35	28	34	34	34	-
Other Than Personal Services	6,023	5,589	8,360	8,682	7,518	(842)
Supplies and Materials	491	490	743	492	560	(183)
Property and Equipment	336	147	321	251	321	-
Other Services and Charges	4,922	4,564	7,083	7,493	6,458	(625)
Contractual Services	274	390	213	447	180	(34)
Fixed and Misc. Charges	1	-	-	-	-	-
TOTAL	\$47,033	\$45,764	\$45,797	\$50,289	\$40,088	(\$5,709)
Funding						
City Funds			\$44,055	\$46,321	\$37,886	(\$6,169)
Other Categorical			-	26	-	-
State			1,742	2,541	1,742	-
Federal - Other			-	1,402	460	460
TOTAL	\$47,033	\$45,764	\$45,797	\$50,289	\$40,088	(\$5,709)
Headcount						
Full-Time Salaried	591	575	525	525	479	(46)

DA - Richmond	2008	2009	2010	2010	2011	Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	Jan. Plan	Jan. Plan	2010–2011
Spending						
Personal Services	\$7,379	\$7,308	\$6,849	\$7,378	\$5,907	(\$942)
Full-Time Salaried – Civilian	7,046	7,023	6,612	7,133	5,670	(942)
Other Salaried & Unsalaries	177	141	193	193	193	-
Additional Gross Pay	47	48	11	11	11	-
Overtime - Civilian	106	92	30	30	30	-
Fringe Benefits	3	4	3	11	3	-
Other Than Personal Services	932	997	752	806	765	14
Supplies and Materials	157	132	62	96	134	72
Property and Equipment	62	69	129	121	129	-
Other Services and Charges	570	629	420	430	362	(58)
Contractual Services	144	167	141	159	141	-
TOTAL	\$8,311	\$8,305	\$7,601	\$8,184	\$6,673	(\$928)
Funding						
<i>City Funds</i>			\$7,413	\$7,769	\$6,336	(\$1,077)
<i>Other Categorical</i>			-	14	-	-
<i>State</i>			187	342	187	-
<i>Federal - Other</i>			-	59	149	149
TOTAL	\$8,311	\$8,305	\$7,601	\$8,184	\$6,673	(\$928)
Headcount						
	95	94	92	92	85	(7)

Special Narcotics	2008	2009	2010	2010	2011	Difference
<i>Dollars in Thousands</i>	Actual	Actual	Adopted	Jan. Plan	Jan. Plan	2010–2011
Spending						
Personal Services	\$17,300	\$17,191	\$15,782	\$18,044	\$14,252	(\$1,530)
Full-Time Salaried – Civilian	16,702	16,668	15,641	17,903	14,111	(1,530)
Other Salaried & Unsalaries	327	276	6	6	6	-
Additional Gross Pay	178	149	26	26	26	-
Overtime - Civilian	80	83	94	94	94	-
Fringe Benefits	12	13	15	15	15	-
Other Than Personal Services	479	488	438	461	427	(11)
Supplies and Materials	119	128	81	140	47	(34)
Property and Equipment	81	97	72	68	72	-
Other Services and Charges	260	238	183	224	206	23
Contractual Services	18	25	102	30	102	-
TOTAL	\$17,778	\$17,679	\$16,220	\$18,505	\$14,679	(\$1,541)
Funding						
<i>City Funds</i>			\$15,093	\$16,904	\$13,224	(\$1,869)
<i>State</i>			1,127	1,256	1,127	-
<i>Federal - Other</i>			-	345	328	328
TOTAL	\$17,778	\$17,679	\$16,220	\$18,505	\$14,679	(\$1,541)
Headcount						
Full-Time Salaried	206	202	182	182	167	(15)

January Plan Budget Issues

- Proposed Budget Reductions in the January Plan.** The January Plan includes a proposal to reduce the prosecutors’ Fiscal 2011 and outyear budgets by eight percent. In total, these proposed reductions would come to approximately \$22.5 million. These cuts would impact the specific agencies as follows:

Proposed Budget Reductions (in Thousands)	
	Fiscal 2011
New York	(\$6,716)
Bronx	(4,007)
Brooklyn	(5,899)
Queens	(3,846)
Richmond	(648)
Special Narcotics	(1,336)
TOTAL	(\$22,452)

- Deferred Prosecution Revenue Credits.** The Manhattan DA has been able to generate significant revenues for the City (and revenue credits for all of the City’s prosecutors) through the negotiation of so-called “deferred prosecution” settlements in which defendants agree to make payments prior to the filing of an accusatory instrument. The State recently passed legislation (which expires March 31, 2010) dictating the manner in which such revenue will be apportioned among the City, State and the specific prosecutor’s office handling such cases. Previously, State law provided no clarity regarding such revenue sharing. The State law change, as well as the existence of off-budget bank accounts into which deferred prosecution revenues are initially retained, have been the subject of dispute among the New York County DA’s office and the Administration. Whereas the DA’s office asserted that the retention and later distribution of revenues have been handled in accordance with applicable laws, the Administration has expressed concerns regarding the lack of transparency regarding the bank accounts which, it contends, makes budgeting decisions more difficult. Since these bank accounts may contain sums even greater than the size of the DA’s own budget, this is an issue that is worthy of vigilant oversight.

As a direct result of deferred prosecution revenues generated by the Manhattan DA in the Credit Suisse case, the January Plan provides the following credits in Fiscal 2010:

Deferred Prosecution Revenue Credits (in Thousands)	
	Fiscal 2010
New York	\$3,817
Bronx	2,173
Brooklyn	3,205
Queens	2,097
Richmond	354
Special Narcotics	730
TOTAL	\$12,376

How the Recently-Passed State Revenue Sharing Law was used in the Credit Suisse Case

	% returned to DA-NY	Revenue Transferred to the State	Revenue Allocated back to DA- NY*	State Share	City Share
\$0-\$25 Million	10%	\$ 25,000,000	\$2,500,000	\$ 11,250,000	\$ 11,250,000
\$25-\$50 Million	7.50%	\$ 25,000,000	\$1,875,000	\$ 11,562,500	\$ 11,562,500
\$50-\$100 Million	5%	\$ 50,000,000	\$2,500,000	\$ 23,750,000	\$ 23,750,000
> than \$100 Million	1%	\$168,000,000	\$1,680,000	\$ 83,160,000	\$ 83,160,000
TOTAL		\$268,000,000	\$8,555,000	\$129,722,500	\$129,722,500

* Note: The \$8.555-million sum was not included in the agency's budget in the January Plan.

- OMB Revenue Agreement.** The prosecutors have, for the past several years, operated under a Revenue Agreement with the Mayor's Office of Management and Budget (OMB) that allowed the agencies to have a portion of prior-year budget reductions restored if revenues were generated above a certain baseline amount. Revenues generated in New York County, the nation's financial center, have allowed for such restorations for all of the prosecutors' offices (see "Deferred Prosecution Revenue Credits" above). The Revenue Agreement with OMB has expired and, OMB reports, a new one is being negotiated.

At many prior hearings, Council Members have expressed displeasure with the old agreement for three basic reasons: (a) that the Agreement runs the risk of forcing prosecutors to alter their normal priorities to bend to financial incentives, (b) that the Agreement leaves the budgets of all of the other prosecutors in the hands of the New York County DA, and (c) that the ebb and flow of revenue credits over time makes both short- and long-term budgeting unmanageable. The Council will monitor the Revenue Agreement issue during the course of this budget season.

- Predicate Felony Transcripts.** Sentencing guidelines for repeat felony offenders require the production of the offenders' records for use by judges in calculating sentences. OMB is baselining transcript funding in recognition that the production of such transcripts is now an on-going function for the DAs. Funds totaling approximately \$351,000 are included in the January Plan beginning in Fiscal 2010 to cover these costs. This funding would be added to the specific agencies as follows:

Predicate Felony Transcripts Funding (in Thousands)	
	Fiscal 2010 & Outyears
New York	\$161
Bronx	36
Brooklyn	69
Queens	39
Richmond	23
Special Narcotics	23
TOTAL	\$351

- **Stimulus Funding.** The sum of \$5 million in federal Stimulus funding flowing from the American Recovery and Reinvestment Act (ARRA) will support the operations of the City's prosecutors over several years. These funds include approximately \$1.3 million in Fiscal 2010, \$2.5 million in Fiscal 2011, \$1.1 million in Fiscal 2012, and \$111,000 in Fiscal 2013. This funding would be added to the specific agencies as follows:

ARRA Funding (All DAs & Special Narc.)	
Fiscal 2010	\$1,281,825
Fiscal 2011	2,519,995
Fiscal 2012	1,051,032
Fiscal 2013	111,496
TOTAL	\$4,964,348